

U.S. Application No. 10/688,392, filed October 17, 2003  
Attorney Docket No. 14102US02  
Response dated March 28, 2008  
In Response to Office Action mailed December 28, 2007

### **REMARKS**

Claims 1-40 are pending. Claims 1-16 and 18-40 stand rejected. Claims 17 and 18 are merely objected to.

#### **Patentable Subject Matter**

Applicant is grateful for the indication by the Examiner that claims 17 and 18 recite patentable subject matter.

#### **Commonly Owned by Broadcom Corporation**

Claims 20, 21 and 24-33 stand rejected under 35 U.S.C. § 103(a) as being obvious based, at least in part, on United States Patent Publication No. 2004/0073622 A1 to Scott S. McDaniel et al. ("McDaniel Publication"). Applicant respectfully traverse the rejection since the McDaniel Publication is not available as prior art.

35 U.S.C. § 103(c)(1) provides that "[s]ubject matter developed by another person, which qualifies as prior art only under one or more of subsections (e), (f), and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the claimed invention was made, owned by the same person or subject to an obligation of assignment to the same person."

The McDaniel Publication and the present application are commonly owned by Broadcom Corporation. The McDaniel Publication is not available as prior art under 35 U.S.C. § 103(a) since the McDaniel Publication and the claimed inventions of the present application were owned by the same person (i.e., Broadcom Corporation).

Supporting evidence of the assignment of rights to Broadcom Corporation is set forth as follows: The present application was assigned to Broadcom Corporation on October 15, 2003 and recorded at Reel/Frame No. 014380/0608. The McDaniel Publication was assigned to Broadcom Corporation on August 18, 2003 and was recorded at Reel/Frame No. 014168/0600.

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Accordingly, the McDaniel Publication is not available as prior art under 35 U.S.C. § 103(a).

For at least the above reasons, it is therefore respectfully requested that the rejection under 35 U.S.C. § 103(a) be withdrawn with respect to claims 20, 21 and 24-33.

#### **Anticipation Rejection**

Claims 1, 2 and 6-8 stand rejected under 35 U.S.C. § 102(b) as being anticipated by United States Patent No. 5,958,017 to Steven L. Scott et al. ("Scott patent").

The Office Action alleges, for example, that the first queue pair (QP) associated with a first connection corresponds to virtual channel 1 and that the first send queue of the first QP corresponds to buffer 260.0 and buffer 260.1. The Office Action also alleges, for example, that a shared receive queue (SRQ) corresponds to large receive buffer 280.

It appears that the Office Action does not provide evidence that buffer 260.0 and buffer 260.1 and large receive buffer 280 or virtual channel 1 are of a "*queue*" type. Although it appears that, for example, large send buffer 260 and large receive buffer 280 are partitioned into a plurality of buffers 260.0, 260.1, ..., 260.n, 280.01, 280.1, ..., 280.n as illustrated in FIG. 4. The Office Action does not provide evidence in Scott in which Scott describes a "*queue*" type with respect to, for example, buffers 260.0, 260.1, ..., 260.n, 280.01, 280.1, ..., 280.n as alleged in the anticipation rejection.

Without further evidence from Scott, it appears that a *prima facie* case of anticipation has not been fully presented.

It is respectfully requested that the anticipation rejection be withdrawn with respect to claims 1, 2 and 6-8.

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### **Obviousness Rejections Based At Least In Part On Scott**

In view of the above-identified deficiency in the *prima facie* case, it is believed that the Office Action does not present a *prima facie* case of obviousness.

“The examiner bears the initial burden of factually supporting any *prima facie* conclusion of obviousness. If the examiner does not produce a *prima facie* case, the applicant is under no obligation to submit evidence of nonobviousness.” M.P.E.P. § 2142 (italics in the original).

For at least the above reasons, it is respectfully requested that the obviousness rejections based at least on Scott be withdrawn with respect to claims 3-5, 9-16, 19, 22, 23 and 34-40.

### **Conclusion**

Applicant does not necessarily agree or disagree with the Examiner’s characterization of the documents made of record, either alone or in combination, or the Examiner’s characterization of recited claim elements. Furthermore, Applicant respectfully reserves the right to argue the characterization of the documents of record, either alone or in combination, to argue what is allegedly well known, allegedly obvious or allegedly disclosed, or the characterization of the recited claim elements should that need arise in the future.

With respect to the present application, Applicant hereby rescinds any disclaimer of claim scope made in the parent application or any predecessor or related application. The Examiner is advised that any previous disclaimer of claim scope, if any, and the alleged prior art that it was made to allegedly avoid, may need to be revisited. Nor should a disclaimer of claim scope, if any, in the present application be read back into any predecessor or related application.

In view of at least the foregoing, it is respectfully submitted that the present application is in condition for allowance. Should anything remain in order to place the present application in condition for allowance, the Examiner is kindly invited to contact the undersigned at the below-listed telephone number.

The Commissioner is hereby authorized to charge any additional fees, to charge any fee

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deficiencies or to credit any overpayments to the deposit account of McAndrews, Held & Malloy, Account No. 13-0017.

Date: March 28, 2008

Respectfully submitted,

/Michael T. Cruz/

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